

## **REMARKS**

Claims 1-9 were examined and reported in the Office Action. Claims 1-9 are rejected. Claims 1, 2, 8 and 9 are amended. Claims 1-9 remain.

Applicant requests reconsideration of the application in view of the following remarks.

In the Action, Claims 1, 2, 8, and 9 are objected to due to informalities. In response, Applicant has amended Claims 1, 2, 8, and 9 as suggested by the Examiner and further amended Claims 1, 2 and 9 to include the abbreviations “ACBG” and “NSR”. Approval is respectfully requested.

Claims 1, 2, 3, 5, 7, 8 and 9 are rejected under 35 USC 112, second paragraph, as being indefinite. In response, Applicant has amended Claims 1, 2, 8 and 9 responsive to this rejection. Additional amendments have been made to the claims to provide additional clarification. Applicant has also amended the specification to conform to the amended claim language without adding any new matter by substituting terms. For example, a voiced/non-stationary voiced classifying portion has been changed to a voiced/on-set classifying portion, and a voiced classifying portion has been changed to a stationary/non-stationary classifying portion. It is submitted that such amendments provide clarity without adding new matter. In this connection, submitted herewith is a substitute specification in “redline” showing the changes, as well as a clean copy of the specification.

In the Action, Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gao et al. In response, Applicant requests the Examiner to reconsider the claims based on the provided amendments and the following discussion. Gao teaches transmission rate determination performed with linear predictive coding (LPC) and open-loop pitch detection (OLPD) techniques (at col. 31, lines 43-49 and col. 34, lines 35-36). For each audio frame, Gao employs LPC and OLPD along with fixed code-book gain (FCBG), adaptive code-book gain (ACBG), noise to signal ratio (NSR), and pitch delay to determine the frame’s class. The frame is associated with one of six possible classes which correspond to an ultimate transmission rate. The Applicant’s apparatus and method determines the transmission rate in speech transcoding without using LPC and OLPD. By using FCBG, ACBG, NSR, and pitch delay comparisons for each frame, the Applicant’s are able to obtain a classification as speech or silence, as voiced or unvoiced, as voiced or onset, and as stationary or non-stationary and corresponding transmission

rate for each frame without the need for LPC and OLPD. The Examiner fails to cite prior art references which teach or suggest obtaining a classification and transmission rate for each frame without using LPC and OLPD. According to MPEP §2143.03, "[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” Therefore, claims 1, 2 and 9 are not obvious in view of Gao.

In view of the foregoing, it is believed that all claims now pending, namely 1-9, patentably define the subject invention over the prior art of record and are in condition for allowance and such action is earnestly solicited at the earliest possible date.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

**PETITION FOR EXTENSION OF TIME**

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on June 4, 2007, Applicant respectfully petitions Commissioner for a one (1) month extension of time, extending the period for response to October 4, 2007. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$60 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(1) small entity and for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Dated: \_\_\_\_\_

10/3/07

Eric Hyman, Reg. No. 30,139

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(310) 207-3800

**CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below

  
Linda Metz

October 3 2007

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